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10/789,770	02/27/2004	Paul Thomas D'Henin	04-086	1886

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EXAMINER

KAUFFMAN, BRIAN K

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 12/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/789,770

Applicant(s)

D'HENIN, PAUL THOMAS

Examiner

Brian K. Kauffman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/14/05</u> | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Drawings*

New corrected drawings are required in this application because the drawings are objected to under 37 CFR 1.84. In figures 1-6, the lines, numbers, and letters are not uniformly thick and well defined, clean, durable, and black. Figure 6 contains shading. Shading is not permitted. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Federal Standard 751 in view of Benstock et al. (5,003,902) in further view of Swers et al. (6,423,409).

In regard to claim 1, Federal Standard 751 discloses a method for producing a garment seam between a first garment component and a second garment component, the method comprising the steps of placing the first garment component having a first and second surface in an adjacent relationship to a second garment component having a first surface and a second surface so as to define a seam (seam type LSc-2); providing a sewing machine set up with at least two elements (stitch type 402); and sewing the first and second garment components together by using the sewing machine. Federal Standard 751 does not disclose applying sufficient heat to the stitched seam nor does Federal Standard 751 disclose using high-melt and low-melt elements in the production of the seam. Benstock et al. do disclose applying sufficient heat to the stitched seam and using high-melt and low-melt elements in the production of the seam (col. 3, lines 44-63 and col. 4, lines 34-45). Applying the heat and using threads possessing different melting points provides a durable seam (col. 4, lines 47-49). It would have been obvious at the time the invention was made to modify the method of producing a garment seam as disclosed in Federal Standard 751 by utilizing high-melt and low-melt elements in the production of the seam and then applying sufficient heat to the stitched seam as taught by Benstock et al. in order to produce a durable seam.

The combination of Federal Standard 751 and Benstock et al. does not require the low-melt element to be a thread. The combination instead requires utilizing a low-melt film. Swers et al. disclose a yarn comprising low-melt and a high-melt threads (col. 3, lines 16-17). Utilizing low-melt threads rather than low-melt film forms strong bonds and stabilizes and strengthens the seam (abstract). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the combination of Federal Standard 751 and Benstock et al.'s method to utilize a low-melt thread as taught by Swers et al. in order to form a strong bond and stabilize and strengthen the seam.

In regard to claim 2, Federal Standard 751 discloses a method for producing a garment seam between a first garment component and a second garment component, the method comprising the steps of placing the first garment component having a first and second surface in an adjacent relationship to a second garment component having a first surface and a second surface so as to define a seam; reverse folding an edge portion of the first garment component over an edge portion of the second garment component along the seam wherein the first surface of the first garment component overlaps and abuts the first surface on the second garment component (seam type LSc-2); providing a sewing machine set up with at least two elements (stitch type 402); sewing the first and second garment components together by a set stitch running along the seam; reverse folding the second garment component such that the first surface of the second garment component is folded over and abuts against the second surface of the first garment. Federal Standard 751 does not disclose applying sufficient heat to the

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stitched seam nor does Federal Standard 751 disclose using high-melt and low-melt elements in the production of the seam. Benstock et al. do disclose applying sufficient heat to the stitched seam and using high-melt and low-melt elements in the production of the seam (col. 3, lines 44-63 and col. 4, lines 34-45). Applying the heat and using threads possessing different melting points provides a durable seam (col. 4, lines 47-49). It would have been obvious at the time the invention was made to modify the method of producing a garment seam as disclosed in Federal Standard 751 by utilizing high-melt and low-melt elements in the production of the seam and then applying sufficient heat to the stitched seam as taught by Benstock et al. in order to produce a durable seam.

The combination of Federal Standard 751 and Benstock et al. does not require the low-melt element to be a thread. The combination instead requires utilizing a low-melt film. Swers et al. disclose a yarn comprising low-melt and a high-melt threads (col. 3, lines 16-17). Utilizing low-melt threads rather than low-melt film forms strong bonds and stabilizes and strengthens the seam (abstract). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the combination of Federal Standard 751 and Benstock et al.'s method to utilize a low-melt thread as taught by Swers et al. in order to form a strong bond and stabilize and strengthen the seam.

In regard to claims 3-5 and 11-12, Swers et al. disclose that the low-melt thread is a thermoplastic composed of polypropylene with a melting point ranging from 85 degrees Celsius to 120 degrees Celsius (col. 3, lines 16-30).

In regard to claim 6, Federal Standard 751 discloses combining all the threads in at least one thread position (stitch type 402).

In regard to claims 7 and 8, Benstock et al. disclose placing the front panel of a dress shirt in an adjacent relationship to the second garment component comprising a back panel of a dress shirt such that the seam comprises a side seam of a dress shirt (fig. 2).

In regard to claim 9, Benstock et al. disclose applying pressure by ironing and pressing (col. 4, line 55-col. 5, line 11).

In regard to claim 10, Federal Standard 751 discloses a seam connecting two garment components comprising a first garment component having a first surface and a second surface; a second garment component having a first surface and a second surface; the first garment component being reverse folded along an edge of the first surface of the second garment component; a set stitch running along the seam sewing the first and second garment components together the second garment component being reverse folded around the first garment (seam type LSc-2). Federal Standard 751 does not disclose applying sufficient heat to the stitched seam nor does Federal Standard 751 disclose using high-melt and low-melt elements in the production of the seam. Benstock et al. do disclose applying sufficient heat to the stitched seam and using high-melt and low-melt elements in the production of the seam (col. 3, lines 44-63 and col. 4, lines 34-45). Applying the heat and using threads possessing different melting points provides a durable seam (col. 4, lines 47-49). It would have been obvious at the time the invention was made to modify the method of producing a

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garment seam as disclosed in Federal Standard 751 by utilizing high-melt and low-melt elements in the production of the seam and then applying sufficient heat tot the stitched seam as taught by Benstock et al. in order to produce a durable seam.

The combination of Federal Standard 751 and Benstock et al. does not require the low-melt element to be a thread. The combination instead requires utilizing a low-melt film. Swers et al. disclose a yarn comprising low-melt and a high-melt threads (col. 3, lines 16-17). Utilizing low-melt threads rather than low-melt film forms strong bonds and stabilizes and strengthens the seam (abstract). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the combination of Federal Standard 751 and Benstock et al.'s method to utilize a low-melt thread as taught by Swers et al. in order to form a strong bond and stabilize and strengthen the seam.

### ***Response to Arguments***

Applicant's arguments filed 9/28/05 have been fully considered but they are not persuasive.

The applicant argues that Benstock does not disclose a high-melt thread because the thread partially melts at high temperatures. The examiner contends that the applicant has misinterpreted the specification. The high-melt thread in Benstock is "at most only partially melted or softened" (col. 3, lines 65-66). This is inferred to mean that in some embodiments the temperature used might induce the high-melt thread to soften but retain its structural integrity and shape. In other embodiments the temperature used will not induce the high-melt thread to soften or partially melt at all.



Benstock does disclose embodiments where the high-melt thread does not melt and therefore partially reads on the claims. It should also be pointed out that in the embodiments where the thread may partially melt, Benstock does not disclose that the high-melt thread melts in the manner consistent with the specification of the instant invention. The instant invention defines the term "melt" to mean completely soften and take on a new shape. It is not the intent of Benstock that the high-melt thread should lose its shape. It is merely a side affect that the thread might temporarily soften under the extreme heat.

The applicant also contends that Swers' method and apparatus are non-analogous art. The applicant also contends that yarn as described by Swers is completely different from sewing thread. The examiner disagrees. Swers solves the problem of strengthening the construction of a garment by utilizing high-melt and low-melt constituents. The instant invention solves the problem of strengthening the construction of a garment by utilizing high-melt and low-melt constituents. The vital teaching obtained from Swers is not the use of fabric in the construction a garment, but rather the use and properties of the yarn used in the fabric. The yarn in Swers utilizes high-melt filaments and low-melt filaments. Filaments are fibers of extreme length. Just as the filaments in Swers' yarn, the threads in the instant invention are of extreme length. Although the instant invention discloses two threads, they act together as one seaming thread in a similar manner as the filaments of the yarn in Swers. Because the filaments in Swers act in a similar manner as the threads of the instant invention, Swers discloses analogous art.

Finally, the applicant argues that the abstract of Swers does not teach the strengthening of seams because the word “seams” does not appear in any part of the abstract or disclosure of Swers. Swers alone does not read on the claims of the instant invention. Rather, Swers combined with Benstock and Federal Standard 751 read on the instant claims. Although Swers does not specifically mention “seams”, when the abstract is read in light of Benstock and Federal Standard 751, it teaches strengthening a seam. The significant structure of a seam is the thread used to sew the seam. The properties of the thread and stitch dictate the properties of the seam. If the thread and stitch used to sew a seam are weak, the seam will be weak. If the thread and stitch used to sew a seam are strong, the seam will be strong. The abstract teaches that exposing the high-melt and low-melt constituents to a preselected temperature, creates bonds and strengthens the yarn. When read in light of Benstock and Federal Standard 751, exposing the high-melt and low-melt constituents to a preselected temperature, creates bonds and strengthens the sewing thread, which in turn would strengthen the seam.

The examiner that for the reasons stated above, a prima facie case of obviousness has been established.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kadija et al. (4,247,345) disclose a method for joining synthetic materials.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian K. Kauffman whose telephone number is (571)272-4988. The examiner can normally be reached on M-F every week.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (571)272-4983. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BKK

11/29/05

  
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